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May 28, 2002

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, D.C. 20554

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers, CC Docket Nos. 00-256, 98-77, and 98-166

Dear Ms. Dortch:

On behalf of the Competitive Universal Service Coalition ("CUSC"), Mark Rubin, Director-Federal Government Affairs, of Western Wireless, and I made a presentation regarding the proceedings listed above to Kyle Dixon, legal advisor to Chairman Powell. The attached summary of the content of the presentation was handed out during the meeting.

Please contact me if you have any questions.

Respectfully submitted,

David L. Sieradzki
Counsel for the Competitive Universal
Service Coalition

Enclosures

cc: Kyle Dixon

Competitive Universal Service Coalition Priorities
May 2002

- **Retain Portability.** The Commission should continue to adhere to the fundamental principle that all universal service support must be *portable* – *i.e.*, incumbents and competitive entrants must receive identical amounts per line that they serve.
 - **1996 Act Requires Portability.** The Act requires the Commission to eliminate implicit subsidies and replace them with explicit support as part of a competitively neutral universal service regime. (*Alenco; Qwest; Comsat; TOPUC II.*) Portability is a necessary corollary of these principles.
 - **Portability Removes Artificial Entry Barriers.** Portable funding for competitive ETCs does not artificially “create competition” in high-cost areas. Rather, it eliminates an artificial barrier to entry – preferential support provided to certain carriers but not others – and sets a level playing field for competition, to the benefit of consumers in rural areas.
 - **Funding Competitive ETCs Based on Their Own Embedded Costs Would Not Advance the Public Interest.**
 - » Competitive ETCs have never been rate-regulated, and there is no generally accepted methodology for measuring their embedded costs. Moreover, for over 20 years, the FCC has declined to impose cost justification requirements on competitive entrants. For the same reasons, the FCC’s reciprocal compensation rules require that new entrants receive compensation based on ILEC costs.
 - » There is no reason to assume that competitive ETCs’ per-line embedded costs are always lower than those of rural ILECs. To the contrary, competitive ETCs’ costs may be substantially higher, measured on a per-line basis, since their customer bases likely will be relatively small by comparison with ubiquitous incumbents. Moreover, unlike competitive carriers, the rural ILECs recover their embedded costs of providing service, regardless of the number of customers or market penetration. Competitive carriers, however, only receive the per-line equivalent of what the rural ILECs receive, so their total amount of support is based upon the number of customers or market penetration, and is always less than the rural ILECs receive.
 - » Ultimately, all universal service funding should be based on *forward-looking costs*, not the embedded costs of any class of carriers. Under the 1996 Act, the FCC should discontinue the paradigm of guaranteeing cost recovery for a favored class of carriers. Basing support on each carrier’s own embedded costs destroys incentives for efficiency and innovation. In a forward-looking environment, all carriers have the same “cost” of service, *i.e.*, what it would cost an efficient carrier deploying the most cost-effective currently available technology to provide service. Thus, all carriers should receive a portable, identical per-line support amount targeted to reflect the cost of serving a high-cost area and to ensure that consumers are well-served – in high-cost areas served by rural as well as non-rural ILECs.

- Proper Use of Support Funds. Competitive ETCs receiving support must certify that they are complying with Section 254(e) and using the funds for appropriate purposes. Universal service funds cover only a small portion of the cost of providing, maintaining, and upgrading facilities. The rural ILECs' allegations of fraud are baseless and offensive.
- Rural ILECs are Thriving. There is no basis for rural ILECs' threats that portable support will force them to abandon rural markets. Competitive entrants have barely begun to enter rural markets, and face an uphill battle against incumbents. Most state commissions considering this issue, as well as the FCC (in several section 214(e)(6) designation proceedings), have found rural ILEC claims to be baseless.
- Eliminate Barriers to Entry. Any new proceeding focused on competitive ETC issues should examine "shortcomings in the current system [that] undermin[e] economic viability of competition and new entry." (Chairman Powell, 10/23/01 speech)
 - Address Problems with ETC Designation.
 - » ETC Process. The FCC should consider requiring state commissions to grant ETC designations within a specified time frame (e.g., six months), and precluding state commissions from imposing burdensome and duplicative procedural requirements.
 - » Substantive Standards. The FCC should "induce" state commissions not to impose criteria or conditions on wireless carriers that effectively force them to relinquish their CMRS status, such as rate regulation, tariff requirements, equal access, or unlimited free local usage requirements. Such requirements are anti-competitive and unnecessary to ensure that high-cost consumers receive the benefits of universal service.
 - » Study Area Definition. If a rural ILEC has geographically disaggregated its study area for funding purposes, then that study area should be deemed disaggregated for ETC designation purposes as well.
 - Eliminate Implicit Subsidies. The FCC should take further action to restructure its own access charge and universal service policies, and should "induce" similar state policies, to ensure that ILECs do not receive implicit subsidies through access charges or other rates.
 - Rural ILECs Should Not Be Free to Game the System. The FCC should grant CUSC's petition for reconsideration of the RTF and MAG orders, and adopt basic guidelines to prevent rural ILECs from disaggregating rural study areas in an anti-competitive manner.